

## CABINET ITEM COVERING SHEET PROFORMA

**AGENDA ITEM**

**REPORT TO CABINET**

**8<sup>TH</sup> SEPTEMBER 2011**

**REPORT OF CORPORATE  
MANAGEMENT TEAM**

### **CABINET DECISION**

**Access & Communities – Lead Cabinet Member – Councillor Coleman**

#### **EQUALITY IMPACT ASSESSMENTS**

1. Summary

This report highlights the importance of effective arrangements for undertaking equality impact assessments (EIAs) and proposes a revised framework to improve the way in which we evaluate the impact of policy, strategy and service development on the various communities we serve.

2. Recommendations

It is recommended that the revised framework for undertaking equality impact assessments is approved.

3. Reasons for the Recommendations/Decision(s)

The revised framework for equality impact assessments is required to ensure that the Council has effective processes in place for evaluating the impact of its policies, strategies and service development on the communities it serves, in a way which respects the diversity of our communities and promotes equality in line with the requirements of the Equalities Act 2010.

4. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same

purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;

- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

**Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.**

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## **CABINET DECISION**

### **EQUALITY IMPACT ASSESSMENTS**

#### **SUMMARY**

This report highlights the importance of effective arrangements for undertaking equality impact assessments (EIAs) and proposes a revised framework to improve the way in which we evaluate the impact of policy, strategy and service development on the various communities we serve.

#### **RECOMMENDATIONS**

It is recommended that the revised framework for undertaking equality impact assessments, as set out in paragraphs 15 to 21 of this report, be approved.

#### **DETAIL**

##### **National context**

1. The requirement to carry out equality impact assessments has been enshrined in past equality legislation, including the Race Relations (amendment) Act 2000, Disability Discrimination Act (2005) and Equality Act (2006). More recently, the Equalities Act 2010 amended the requirements relating to EIAs. Whilst this Act does not make the production of EIAs a specific requirement, it does importantly still require public bodies to show that they have fully considered equality and diversity issues in all policies and procedures and service changes and that they have assessed fully the equality outcomes of their decisions. **Appendix 1** gives a useful summary of requirements regarding the assessment of impact, under the new Public Sector Equality Duty.
2. The benefits of well conducted equality impact assessments include:
  - enabling the Council to demonstrate that decisions impact in a fair way;
  - ensuring actions are taken to address adverse impacts, where feasible and appropriate;
  - providing a clear rationale for decisions where there is a risk of adverse impact;
  - a structured process for collecting and evaluating evidence of impact;
  - making decision-making more transparent;
  - promoting partnership work on the joint impact of initiatives across our communities;
  - enabling an effective response to any legal challenge.
3. In addition to the statutory framework outlined above, other national developments (as outlined in paragraphs 4, 5 and 6 below) are highlighting the importance of ensuring that Councils have in place effective arrangements for assessing the impact of their activity on their local

communities, particularly in respect of those groups with 'protected characteristics' within equality legislation.

4. Councils are being challenged through the courts for failing to take into account their public sector equality duties. Some cases have been lost by Councils as a result of weaknesses in their approach to assessing the equality implications of their decisions. Such cases can have significant negative consequences on the Council's reputation, as well as the associated costs of legal processes.
5. Constraints on public spending, with associated decisions around service reductions and cuts, are likely to increase the risk of Councils being challenged through the courts if the rationale for decisions has not properly reflected consideration of the equality duties. EIAs have been used as a tool to assess the impact of these changes, ensuring thorough consideration is given to all equality duties prior to making decisions. These duties do not prevent Councils from making cuts, but provide a way of developing proposals which consider the needs of all members of the community. Where Councils have made reductions in services without undertaking thorough EIAs, some of these decisions have been overturned in Court.
6. The Equality and Human Rights Commission (EHRC) is becoming increasingly active in challenging and investigating public authorities. For example, in recent months the Council has responded to formal requests from the EHRC for information on our arrangements for tackling hate crime and promoting disability equality, and our approach to making budget cuts, as well as contributing to a voluntary call for evidence around human rights in residential care.

### **Local context**

7. Within the Council, there has been a process in place over a number of years for EIAs to be considered for all items on Cabinet agendas. Historically, this served us well in establishing an overall corporate approach to equality. However, a review of these current arrangements by the Corporate Diversity Working Group identified the issues set out in paragraphs 8 to 13 below.
8. There needs to be a more consistent engagement with the EIA process across the Council.
9. There is a need to ensure that time committed to the EIA process is targeted more effectively, focused on the relevant issues identified in the Forward Plan and the Value for Money programme.
10. The current approach has become too process oriented and needs to be more focused on understanding the impact of our activity on local communities and specific groups.
11. EIAs tend to be undertaken at the end of the policy / strategy / service development process. They should, however, form an integral part of that process and need to be embedded throughout, rather than carried out at the end.
12. There is a need to refocus the EIA process as a tool for ensuring all new policy / strategy development and changes to service delivery have properly taken account of impact across all sectors of our community.
13. Any revised approach needs to take into account that many decisions which impact on the allocation of resources and service delivery across many communities and user groups, are made outside of Cabinet, in line with the delegated decision arrangements embodied in the Council's constitution.
14. In light of the national context, and outcomes of the review of local arrangements, a revised framework is required for assessing the impact of policy, strategy and service development on the various communities we serve. The key elements of such a framework are set out below.

## **Revised framework**

15. Consideration of equality impact assessment should be part of a broader assessment of impact on local communities, so that key decisions are informed by an understanding of how they are likely to impact on the communities we are serving, including those with specific needs within the scope of equalities legislation. There will be key linkages between this approach and the Council's revised Consultation and Community Engagement Strategies, to ensure that impact assessments are informed by appropriate consultation with relevant groups likely to be affected by any proposals.
16. There should be more effective targeting of decisions on policies, strategies and service developments for which an assessment of impact is required. This can be done through review of items on the Forward Plan; consideration of all Value for Money Reviews through the EIT Sub-Board; monitoring of items through relevant management teams (e.g. for those decisions that are taken under delegated powers); and changes to the Delegated Decision Record Form. and the template for Cabinet Reports.
17. For items targeted in this way, impact assessments are likely to require a staged approach, for example:
  - an outline indication of equality implications when included in the Forward Plan; or at the 'baselining' stage of VfM / EIT reviews;
  - assessment of impact for all options considered prior to the final recommendation / decision making stage;
  - clear arrangements for subsequent monitoring of the outcomes and impact of the new strategy, policy, service or initiative.
18. The current EIA pro-forma should be replaced with a set of guidance and best practice exemplars.
19. There should be a requirement that Cabinet reports, for those items identified as requiring an impact assessment, include a section on 'Assessment of Impact on Communities', in the main body of the report, to replace the current EIA section.
20. Appropriate training, guidance and awareness raising sessions need to be in place to promote an 'equality awareness' culture throughout the organisation and to support implementation of the revised framework.
21. There should be a more robust, and consistent, approach to monitoring the subsequent impact of new policy, strategy, and service developments on the communities we serve. This approach could be linked into the arrangements for developing and monitoring Service Improvement Plans and Business Unit Plans.

## **Next steps**

22. Should the framework above be endorsed by Cabinet, a small task and finish group of officers will be established to develop an action plan for implementing the revised approach and for monitoring the subsequent impact of the revised arrangements.

## **FINANCIAL IMPLICATIONS**

23. There are no new resource implications arising from the proposal set out in this report.

## **LEGAL IMPLICATIONS**

24. The arrangements proposed in this report are designed to support compliance with equalities legislation, as outlined in paragraph 1 of the report.

## **RISK ASSESSMENT**

25. Without effective impact assessment arrangements in place, Councils risk making poor and unfair decisions which may discriminate against particular groups and lead to inequality. Decisions may be open to costly and time-consuming legal challenge and have a negative impact on the council's reputation.
26. Implementation of the revised framework proposed in this report is considered to be low risk, and will help to mitigate the risks identified in the above paragraph.

## **SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS**

27. The arrangements discussed in this report influence all objectives and ambitions within the Sustainable Community Strategy.

## **EQUALITIES IMPACT ASSESSMENT**

28. This report is concerned with establishing a more effective framework for assessing the equalities impact of Council business in the future. The report, therefore, if approved will lead to improved understanding of the impact of Council business on addressing inequalities.

## **CONSULTATION INCLUDING WARD/COUNCILLORS**

29. Consultation has taken place with relevant officers of the Council, through the Corporate Diversity Working Group and the Corporate Management Team.

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Education related? No

### Background Papers

Government Equalities Office: 'Equalities Act 2010: Public Sector Equality Duty. What Do I Need To Know? A Quick Start Guide For Public Sector Organisations'.

### Ward(s) and Ward Councillors

The arrangements proposed in this report are of interest to all Councillors, and will be in the public domain once approved by Cabinet.

### Property

No implications.

Extract from: **EQUALITY ACT 2010: PUBLIC SECTOR EQUALITY DUTY - WHAT DO I NEED TO KNOW? A QUICK START GUIDE FOR PUBLIC SECTOR ORGANISATIONS**

**Common misunderstandings about the Equality Duty**

Under the previous public sector equality duties (for race, disability and gender), public bodies sometimes took unnecessary, inappropriate, disproportionate or counter-productive action in the name of equality.

The new Equality Duty should be applied in such a way as to reverse the overly-bureaucratic and burdensome approach often used under the previous duties, so that the focus is on performance, not process.

**The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment.**

Nor is there is any practical need to conduct one. Compliance with the Equality Duty involves consciously thinking about the three aims of the Equality Duty as part of the process of decision-making. That will entail understanding the potential effects of the organisation's activities on different people, but there is no prescribed process for doing this. Keeping a simple record of how decisions were reached will help public bodies show how they considered the Equality Duty. Producing an Equality Impact Assessment after a decision has been reached will not achieve compliance with the Equality Duty.

**The Equality Duty does not mean that public bodies have to examine equality issues where they are not relevant to the matter in hand.**

Where it is clear from initial consideration that a policy will not have any effect on equality for any of the protected characteristics, no further analysis or action is necessary. For example, if a public body is conducting a review in relation to an issue which has no implications for equality – such as an evaluation of the effect of coastal pollution on marine life – undertaking a formal consultation or analysis addressing equality issues where it is evident that the Equality Duty is not relevant would be pointless and is not required.

**The Equality Duty does not require public bodies to take disproportionate action on equality.**

Public bodies should take a proportionate approach when complying with the Equality Duty – in practice, this means giving greater consideration to the Equality Duty where a function or policy has the potential to have a substantial effect on discrimination or equality of opportunity for the public or the public body's employees, and less consideration where the potential effect on equality is slight.

For example, a public body might decide to translate a leaflet about a key public service into a few commonly spoken minority languages, in order to ensure people from particular ethnic minority communities have access to the service. But translating all of its public information into the 300 languages regularly spoken in London would be a disproportionate response to the Equality Duty.